

Doreen Smeriglio
2 Mallory Street
Danbury, CT 06810

**STATE OF CONNECTICUT
BOARD OF EXAMINERS FOR NURSING**

State of Connecticut
Department of Public Health

vs.

Doreen Smeriglio, LPN
Licensed Practical Nurse License No. 011307
Respondent.

CASE PETITION NO. 970305-011-005

MEMORANDUM OF DECISION

PROCEDURAL BACKGROUND

The Board of Examiners for Nursing (hereinafter the "Board") was presented by the Department of Public Health (hereinafter the "Department") with a Statement of Charges and Motion for Summary Suspension dated April 11, 1997 (Department Exhibit 1). The Statement of Charges alleged violations of certain provisions of Chapter 378 of the General Statutes of Connecticut by Doreen Smeriglio (hereinafter the "Respondent") which would subject the Respondent's Licensed Practical Nurse license to disciplinary action pursuant to the General Statutes of Connecticut.

Based on the allegations in the Statement of Charges and accompanying affidavits and reports, the Board found that the continued nursing practice of the Respondent presented a clear and immediate danger to public health and safety. On April 16, 1997, the Board ordered, pursuant to its authority under §19a-17(c) of the General Statutes of Connecticut, that the Licensed Practical Nurse license of the Respondent be summarily suspended pending a final determination by the Board of the allegations contained in the Statement of Charges. (Department Exhibit 1)

The Board issued a Notice of Hearing dated April 16, 1997, scheduling a hearing for April 30, 1997 (Department Exhibit 1).

The Respondent was provided notice of the hearing and charges against her. Department Exhibit 1 indicates that the Summary Suspension Order, Notice of Hearing, and Statement of Charges were delivered by certified mail to the Respondent's attorney.

The hearing scheduled for April 30, 1997 was continued at the Respondent's request. The hearing was rescheduled and took place on August 13, 1997, in Room 2-A, Legislative Office Building, Capitol Avenue, Hartford, Connecticut.

The Respondent was present during the hearing and was represented by counsel. (Hearing Transcript, August 13, 1997, p. 2)

The Respondent submitted a written answer to the Statement of Charges. (Respondent's Exhibit A)

Each member of the Board involved in this decision attests that he/she was present at the hearing or has reviewed the record, and that this decision is based entirely on the record, the law, and the Board's specialized professional knowledge in evaluating the evidence.

FACTS

Based on the testimony given and the exhibits offered into evidence, the Board makes the following Findings of Fact:

1. Doreen Smeriglio, hereinafter referred to as the Respondent, was the holder of Licensed Practical Nurse License Number 011307 at all times referenced in the Statement of Charges. (Answer: Respondent's Exhibit A)

2. On or about March 4, 1996, the Respondent began employment as a licensed practical nurse at The Apt Foundation, Daytop residential facility, Newtown, Connecticut. (Department Exhibit 2)
3. Beginning on or about January 17, 1995, and including all times referenced in the Statement of Charges, R.W. was a patient at the APT Foundation, Daytop residential facility, Newtown, Connecticut. (Department Exhibit 3) (Hearing Transcript, August 13, 1997, p. 31)
4. Between May 9, 1996 and November 14, 1996, while employed as a licensed practical nurse at the APT Foundation, Daytop residential facility, the Respondent received written and verbal warnings pertaining to maintaining appropriate professional boundaries with patients. The warnings were in response to incidents of the Respondent hugging and kissing patients. (Department Exhibits 2 and 3) (Hearing Transcript, August 13, 1997, pp. 16-17)
5. On or about late summer or early fall 1996, while R.W. was a patient of the Daytop residential facility, the Respondent initiated a personal relationship with patient R.W. On occasion the Respondent and patient R.W. would meet in the medication room at the Daytop residential facility. During such meetings the Respondent and patient R.W. engaged in physical contact which consisted of hugging, kissing and holding hands. (Department Exhibits 2 and 3) (Hearing Transcript, August 13, 1997, pp. 14-15, 31-32)
6. On or about January 3, 1997 and January 17, 1997, while patient R.W. was on forty-eight (48) hour home passes from the Daytop residential facility, the Respondent brought patient R.W. to her home where they engaged in sexual intercourse. (Department Exhibits 2 and 3) (Hearing Transcript, August 13, 1997, pp. 33-36)
7. When patient R.W. attempted to break off the relationship, the Respondent continued to pursue him. (Department Exhibits 2 and 3)

8. The Respondent's relationship with patient R.W. took the focus away from the patient's treatment and the reasons for the patient's continued admission at the Daytop residential facility. The relationship had a detrimental effect such that the patient was considering leaving treatment. (Department Exhibits 2 and 3) (Hearing Transcript, August 13, 1997, pp. 67)

DISCUSSION AND CONCLUSIONS

In consideration of the above Findings of Fact, the following conclusions are rendered:

Doreen Smeriglio held a valid Licensed Practical Nurse license in the State of Connecticut at all times referenced in the Statement of Charges.

The Notice of Hearing and Statement of Charges sufficiently provided legal notice as mandated by the General Statutes of Connecticut §4-177, §4-182 and §19a-17. The hearing was held in accordance with Chapters 54 and 368a of the General Statutes of Connecticut as well as §19-2a-1 through §19-2a-30 of the Regulations of Connecticut State Agencies.

The Notice of Hearing, Statement of Charges and the hearing process provided the Respondent with the opportunity to demonstrate compliance with all lawful requirements for the retention of her license as required by the General Statutes of Connecticut §4-182(c).

The Department bears the burden of proof by a preponderance of the evidence in this matter.

The Statement of Charges alleges that between approximately March 4, 1996 and February 7, 1997, while employed as a licensed practical nurse at Daytop, a residential treatment facility, Newtown, Connecticut, the Respondent failed to maintain appropriate boundaries with residents of Daytop, including having sexual contact with one male resident for whom she also provided care and treatment.

The Respondent denies these charges. (Answer: Respondent's Exhibit A)

Based on its review of the documentary evidence and the testimony presented, the Board concludes that the Respondent exhibited a pattern of failing to maintain appropriate boundaries with male patients of The Apt Foundation, Daytop residential facility, Newtown, Connecticut despite warnings that her behavior was inappropriate. The Board further concludes that there exists ample credible evidence that the Respondent engaged in a sexual relationship with R.W., while R.W. was a patient at The Apt Foundation, Daytop residential facility.

The Board considered the Respondent's testimony in which she acknowledges that she did not maintain appropriate boundaries with patients. The Board however, does not consider the Respondent's denial of engaging in sexual contact with patient R.W. to be credible.

The General Statutes of Connecticut §20-99(b) prohibits conduct which fails to conform to the accepted standards of the nursing profession, which includes "... (2) illegal conduct, incompetence or negligence in performing usual nursing functions...."

Based on its findings the Board concludes that the Respondent's conduct as alleged in the Statement of Charges is proven by a preponderance of the evidence presented in this matter. The Board further concludes that the Respondent's conduct fails to conform to the accepted standards of the nursing profession and constitutes a violation of the General Statutes of Connecticut §20-99(b)(2). Therefore, the Respondent is subject to disciplinary action pursuant to §19a-17 of the General Statutes of Connecticut.

ORDER

Pursuant to its authority under §19a-17 and §20-99 of the General Statutes of Connecticut, the Board of Examiners for Nursing hereby orders the following:

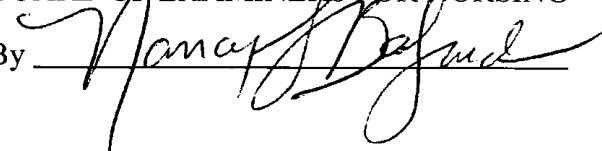
1. That for Paragraph 3 of the Statement of Charges, the Respondent's licensed practical nurse license, No. 011307, is revoked effective the date this Memorandum of Decision is signed by the Board of Examiners for Nursing.

The Board of Examiners for Nursing hereby informs the Respondent, Doreen Smeriglio, and the Department of Public Health of the State of Connecticut of this decision.

Dated at Hartford, Connecticut this 3rd day of December 1997.

BOARD OF EXAMINERS FOR NURSING

By

A handwritten signature in cursive script, appearing to read "Nancy J. DeFuria", written over a horizontal line.

SMRIGLIO DOC